



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICES OF JAMES J. RALABATE
5792 MAIN ST.
WILLIAMSVILLE, NY 14221

COPY MAILED
JUL 03 2006
OFFICE OF PETITIONS

In re Application of	:	
Newman, Steven A.	:	DECISION ON PETITION
Application No. 10/601,902	:	TO WITHDRAW
Filed: June 23, 2003	:	FROM RECORD
Attorney Docket No. XIP74CIP	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 16, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquiries should be directed to the Technology Center.

for David Bucci
Petitions Examiner
Office of Petitions

Cc:

XYBERNAUT CORPORATION
ATTN: CHRISTOPHER TUCKER, PATENT AGENT
SUITE 500, HYATT PLAZA
12701 FAIR LAKES CIRCLE
FAIRFAX, VA 22033